

EXHIBIT 5

OFFICIAL TRANSCRIPT
PROCEEDINGS BEFORE

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FOURTH DIVISION

----- X
FREEMAN McNEIL, et al., :
Plaintiffs, :
v. : Civil No. 4-90-476
NATIONAL FOOTBALL LEAGUE, :
et al., :
Defendants. :
----- X

Washington, D.C.

Wednesday, October 3, 1990

Deposition of GENE UPSHAW

ALDERSON REPORTING COMPANY, INC.
1111 FOURTEENTH STREET N.W.
SUITE 400
WASHINGTON, D.C. 20005
(202) 289-2260

IN THE UNITED STATES DISTRICT COURT
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Deposition of GENE UPSHAW, a witness herein,
called for examination by counsel for Defendants in the
above-entitled matter, pursuant to notice, the witness
being duly sworn by RAYMOND G. BRYNTESON, a Notary
Public in and for the District of Columbia, taken at the
offices of Covington & Burling, 1201 Pennsylvania
Avenue, N.W., Washington, D.C., Conference Room 1060, at
9:56 a.m., Wednesday, October 3, 1990, and the
proceedings being taken down by Stenotype by RAYMOND G.

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1 BRYNTESON and transcribed under his direction.
2

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1 APPEARANCES:

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On behalf of the Defendants:

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On behalf of the NFL Management Council:

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JAMES E. CONWAY, ESQ.

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NFL Management Council

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Assistant Executive Director

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1	C O N T E N T S	
2	THE WITNESS	EXAMINATION BY COUNSEL FOR
3	GENE UPSHAW	DEFENDANTS
4	By Mr. Dym	6, 237
5		PLAINTIFFS
6	By Mr. Glennon	229
7		
8	Afternoon Session - 111	

9	E X H I B I T S	
10		
11	EXHIBIT NO.	PAGE NO.
12	Upshaw Exhibit No. 1	11
13	Upshaw Exhibit No. 2	14
14	Upshaw Exhibit No. 3	70
15	Upshaw Exhibit No. 4	86
16	Upshaw Exhibit No. 5	97
17	Upshaw Exhibit No. 6	104
18	Upshaw Exhibit No. 7	114
19	Upshaw Exhibit No. 8	122
20	Upshaw Exhibit No. 9	125
21	Upshaw Exhibit No. 10	147
22	Upshaw Exhibit No. 11	154

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E X H I B I T S

EXHIBIT NO.	PAGE NO.
Upshaw Exhibit No. 12	155
Upshaw Exhibit No. 13	157
Upshaw Exhibit No. 14	158
Upshaw Exhibit No. 15	160
Upshaw Exhibit No. 16	168
Upshaw Exhibit No. 17	172
Upshaw Exhibit No. 18	181
Upshaw Exhibit No. 19	191
Upshaw Exhibit No. 20	193
Upshaw Exhibit No. 21	197
Upshaw Exhibit No. 22	202
Upshaw Exhibit No. 23	205
Upshaw Exhibit No. 24	210
Upshaw Exhibit No. 25	214
Upshaw Exhibit No. 26	216
Upshaw Exhibit No. 27	218
Upshaw Exhibit No. 28	218
Exhibit 27, a videotape, was retained by Counsel.	

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1 P R O C E E D I N G S

2 Whereupon,

3 GENE UPSHAW,

4 residing at 1102 Pepper Tree Drive, Great Falls,
5 Virginia, 22066, was called as a witness by counsel for
6 Defendants, and having been duly sworn by the Notary
7 Public, was examined and testified as follows:

8 EXAMINATION BY COUNSEL FOR DEFENDANTS

9 BY MR. DYM:

10 Q. Would you state your full name, Mr. Upshaw?

11 A. Gene Upshaw, U-p-s-h-a-w.

12 Q. Give us your business and residence address.

13 A. Business address is 2021 L Street, Northwest,
14 Washington, D.C., 20036. My home address is 1102 Pepper
15 Tree Drive, Great Falls, Virginia, 22066, I think.

16 Q. I understand that you are Executive Director
17 of the National Football League Players Association, is
18 that right?

19 A. Yes.

20 Q. And that is a full-time job, is that right?

21 A. Yes.

22 Q. And you are a salaried employee of the NFL

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1 What was his former athletic career?

2 A. John Kerr is a former soccer player. He
3 played in the NASL. He is currently the Executive
4 Director of the MISL Players Association and his address
5 is 2021 L Street, Washington, D.C.

6 Q. Is Mr. Kerr a long-time player in professional
7 soccer?

8 A. Yes, he is.

9 Q. Both in --

10 A. Both in England and here in the U.S.

11 Q. You mentioned that, in a question from Mr.
12 Dym, there was before you, and I received a copy now
13 marked Upshaw Exhibit 1, that had to do with the change
14 in the tax status, do you recall that line of
15 questioning?

16 A. Yes, I do.

17 Q. The question may have been asked of you before
18 the document was shown to you. The document has certain
19 attachments, and I think he used this as an assistance
20 in refreshing your recollection as to members of the
21 management staff of the NFL Players Association.

22 A. That's correct.

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1 Q. And you were asked a certain question with
2 respect to the filing with the Internal Revenue as to
3 the change in tax status. Would you state as the
4 Executive Director whether the intention of making that
5 filing is permanent as far as the National Football
6 Players Association is concerned?

7 MR. DYM: Object to the form of the question
8 as leading.

9 BY MR. GLENNON:

10 Q. Would you state whether or not that decision
11 made by the Players Association is permanent in terms of
12 changing your tax status?

13 MR. DYM: Same objection.

14 MR. GLENNON: You may answer.

15 THE WITNESS: As far as changing our tax
16 status, and as far as ever being a labor organization
17 again, that is a permanent status. We have no
18 intentions, in the future or in my lifetime, to ever
19 return to be a labor organization again.

20 BY MR. GLENNON:

21 Q. Now, if I wrote this down accurately, in my
22 notes in answer to a question, you used the term pending

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